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20 **UNITED STATES DISTRICT COURT**  
21 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

22 MAUREEN HARRINGTON

23 Case No.: 2:22-cv-08230-HDV-E

24 Plaintiff,

25 v.

26 DEEPAK DUGAR, M.D.,  
27 A MEDICAL CORPORATION

28 **DEFENDANT'S MOTION IN  
LIMINE TO EXCLUDE EVIDENCE  
OF DAMAGES**

29  
30 Defendant Deepak Dugar, M.D., a Medical Corporation (“Dugar Corp.”), by  
31 its undersigned counsel, acting in accordance with the Court’s September 12, 2023  
32 Scheduling Order [Doc. 99], here moves the Court to order Plaintiff Maureen  
33 Harrington be precluded from offering evidence of damages based on the licensing  
34 values of photographs or uses other than the photograph and use at issue here that is

1 not relevant to any proof of damages Plaintiff could claim. Such evidence includes  
2 testimony or exhibits Plaintiff proposes to offer evidencing the price terms for Mr.  
3 Harrington's licenses for other photographs or other purposes that do not reflect the  
4 licensing value of the photograph here at issue or the use of that photograph by  
5 Defendant. Throughout discovery in this matter Plaintiff has repeatedly said she  
6 had no evidence that the Subject Photograph had been sold or licensed, and had no  
7 records that could so suggest. See, e.g., Plaintiff's Answers to Defendant's  
8 Interrogatory No 23, submitted herewith as Exhibit 1; Plaintiff's Response to  
9 Defendant's First Request for Production no. 5, submitted herewith as Exhibit 2;  
10 and Plaintiff's Response to Defendant's Request for Admissions 38 and 39; a copy  
11 of which is submitted herewith as Exhibit 3.

15 Plaintiff Maureen Harrington has further testified in her deposition that she  
16 has no knowledge of the circumstances of Dugar Corp.'s use of, or the value of, the  
17 Subject Photograph. See the transcript of Ms. Harrington's deposition, page 27, l.  
18 9-11; 272, l. 11-23; and 277, l. 3-25, submitted herewith as Exhibit 4.

21 Plaintiff has no admissible evidence to prove the value of any actual damages  
22 he might claim in this matter. Any reference Mr. Harrington may have made to  
23 licenses for other photographs for different uses prior to his death are not  
24 admissible to prove the value of the photograph at issue in this case. See Universal  
25 Picture Company v. Harold Lloyd Corp., 162 F. 2d 354, 375 (9<sup>th</sup> Cir. 1947) (value  
26 of remake rights in one Harold Lloyd film inadmissible to prove actual damages for  
27  
28

1 infringement of a different film by Lloyd), cited with approval in Frank Music  
2 Group v. MGM, Inc., 772 F.2d 505, 515 (9<sup>th</sup> Cir.) 1985).

3 Even were Plaintiff to claim statutory damages as provided in 17 U.S.C. §  
4 504(c), as she is expected to do, she should be precluded from offering evidence of  
5 actual damages in support of a claim for statutory damages.

7 Defendant's counsel certifies that he has discussed with and sought consent  
8 from Plaintiff's counsel for the relief here requested, and that Plaintiff's counsel has  
9 declined to consent.

11 Respectfully submitted,

12 By: /s/ Jeffrey L. Squires  
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24 Plaintiff,

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26 DEEPAK DUGAR, M.D.,  
27 A MEDICAL CORPORATION,

28 Defendant

29  
30 **PROOF OF SERVICE FOR**  
31 **DEFENDANT'S MOTION IN**  
32 **LIMINE TO EXCLUDE EVIDENCE**  
33 **OF DAMAGES**

34  
35 I hereby certify that on this 13th day of February, 2024, a true and correct  
36 copy of Defendant's Motion in Limine to Exclude Evidence of Damages, along  
37 with this Proof of Service, was filed and served via the Court's CM/ECF system to  
38 the following counsel of record.

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